

200 Akamainui Street
Mililani, Hawaii 96789-3999
Tel 808-625-2100
Fax 808-625-5888



February 20, 2008

Mr. Robert Flatt
PO Box 1034
Captain Cook, HI 96704

Dear Mr. Flatt:

I am writing to you in response to your letter to the Department of Commerce and Consumer Affairs, CATV Division.

We have investigated your concerns and have made sure that you are now receiving all one-way services that we provide to our customers subscribing to your level of service.

Oceanic Time Warner Cable supports the ability of Unidirectional Digital Cable Products ("UDCPs") to access our one-way services and will continue to do so in the future. However, we are providing certain channels in other areas as two-way services.

Because UDCPs are one-way devices, they cannot access two-way services. Accordingly, if you would like to view those channels on your UDCP, you must obtain the necessary equipment – specifically, a set-top box with two-way capabilities.

Sincerely,

A handwritten signature in black ink, appearing to read "N. Santos".

Norman P. Santos
Vice President, Operations

cc: Glen Chock, D.C.C.A.

PO Box 1034
Captain Cook
HI, 96704

March 4, 2008

Norman Santos
VP Operations
Oceanic Time Warner
200 Akamainui Street
Mililani
HI 96789-3999

Dear Mr. Santos,

Thank you for your letter dated February 20th, and postmarked February 28th, in response to my Hawaii Dept. Commerce and Consumer Affairs Complaints dated September 17th, September 27th, and September 28th. And also, I assume, in response to emails exchanged between myself and Oceanic between October 2nd and October 31st the last of which asked a manager to contact me.

I understand that your letter draws a distinction between a "UDCP" and a "set-top box with two way capabilities". And also between "one way service" and "two way service". While I can imagine these views help in addressing Oceanic's internal operations, they do not address Oceanic's customer service obligations or Oceanic's obligations to the FCC on which customers depend. These obligations are the issue.

In the context of these obligations the FCC's 'Plug and Play' documentation (<http://www.fcc.gov/cgb/consumerfacts/plugandplaytv.html>) is the gold standard. There are two alternatives, both described in the document: 1) "*one-way programming only, including analog basic, digital basic, and digital premium cable programming*" requiring "*digital cable ready*" consumer equipment; and 2) "*advanced digital cable services like pay-per-view, video-on-demand, cable operator enhanced program guide, or interactive data enhanced television service*" for this "*you will need a set-top box*".

Note that one-way programming includes analog basic, digital basic, and digital premium cable programming. Also note the definitions are in terms of the programming or the viewer usage, not the distribution technology.

I believe Oceanic's service does not comply with its obligations because many channels of "one-way programming" are currently unavailable for third party digital cable ready equipment (on Oceanic's web site labeled as "CableCard"). Oceanic's non-compliance includes, but may not be limited to:

- 1) Channels labeled on the web site as part of, for example, "Digital Cable Service" are labeled "Not available with CableCard". Clearly this is not in compliance as such channels fall within the FCC's "one-way programming" criterion and must be made

available for digital cable ready equipment such as CableCard equipment. The list of these channels is extensive.

- 2) There are several instances of the same programming available in standard definition and on a separate channel in high definition (e.g. TBS, History). But the HD channel is not available to CableCard users on third party boxes. Only the resolution and the aspect ratio are different, the programming is the same; any claim that programming is anything but one-way in both cases is clearly ludicrous.
- 3) Oceanic leases set top boxes that contain a CableCard; strangely the HD channels listed on the Oceanic website as "Not Available with CableCard" are available on these Oceanic supplied CableCard boxes, but not on third party CableCard boxes. The criterion for HD channels seems to be who supplies the set top box. I'm pretty sure the intent of the regulation is that this would not be the case. Perhaps the web site should say "Not Available with TiVo, etc."
- 4) In the second half of 2007, the availability of some channels to third party CableCard equipment changed. The character of the programming did not change; the third party CableCard equipment did not significantly change. In a letter to customers dated August 21 Oceanic explicitly announced discontinued service of some one-way programming to third party CableCard equipment. This was explained (I paraphrase) by Oceanic's choice to install equipment that was not backwards compatible (or choice to operate such equipment in a non-backwards compatible manner). This service discontinuation is a result of Oceanic's choice and not of the programming, one-way or otherwise.

I am sure you will agree, Oceanic's service must comply with FCC regulation. I do not believe this is currently the case as I have illustrated above. So I request Oceanic use its best efforts to make CableCard users whole without delay.

Please view this as an opportunity to provide solutions to your customers using third party equipment; we exist, it is simply good customer service to acknowledge that. I expect you have options; I look forward to hearing your proposal to allow your customers to fully utilize their equipment.

Regards

(Signed)

Robert A Flatt

Cc: Glen Chock, D.C.C.A.